

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2002-419-C - ORDER NO. 2003-480

AUGUST 5, 2003

IN RE: Application of Epixtar Communications Corp. ) ORDER GRANTING  
for a Certificate of Public Convenience and ) CERTIFICATE  
Necessity to Provide Resold Intrastate )  
Telecommunications Services )

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Epixtar Communications Corporation ("Epixtar" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold interexchange telecommunications services within the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2002) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Epixtar to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Epixtar's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Epixtar complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or protests regarding the Application were received by the Commission.

A hearing was convened on May 14, 2003, at 10:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable Mignon Clyburn, Chairman, presided. Epixtar was represented by John J. Pringle, Esquire. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff.

Mr. William D. Rhodes, Jr., President of the Company, appeared and testified in support of the Application. The record reveals that Mr. Rhodes described the nature of Epixtar's proposed service offerings within the State of South Carolina. Additionally, Mr. Rhodes demonstrated the Company's financial, managerial, and technical ability to provide telecommunications services in South Carolina.

According to the testimony, Epixtar was organized on June 25, 2002, and is a start-up entity. The Company is currently authorized to provide interexchange services in twenty-two states as well as the District of Columbia, and is in the process of initiating its operations in those states. Epixtar received foreign corporation authority in South Carolina on December 9, 2002. The Company seeks authority to operate as a reseller of intrastate interexchange telecommunications services to the public on a statewide basis. Specifically, Epixtar proposes to offer traditional switched long distance service, toll-free services, and post-paid calling card services. The Company is aware of the Commission's \$5,000 bond or certificate of deposit requirement associated with prepaid debit card services, and will file such an instrument with the Commission should the Company decide to offer these services, according to the testimony.

The record reveals that Epixtar does not intend to have offices in South Carolina. Therefore, the Company requests, pursuant to Commission Rule 103-610, that the

Commission authorize the Company to keep its books and records at its offices in Florida. Mr. Rhodes testified that, upon request, Epixtar will provide any such books and records to the Commission and its Staff on an expedited basis and at the Company's costs.

The Company's underlying carriers will be Qwest, Global Crossing, and/or WorldCom. Epixtar will purchase its services at a discount from its underlying carriers, and then resell the service under its own brand name to the public. Regarding the Company's billing services, Epixtar bills its customers directly. Mr. Rhodes testified that Epixtar's customer bills will comply in all respects with Commission Rule 103-622.1, and the Company will provide a copy of its customer bill to the Commission, as required by Commission Rule 103-612.2.2.

Regarding the Company's customer service department, Epixtar uses a nationwide toll-free number, (800) 511-2012 for customer services. Customers may call that number twenty-four hours a day, seven days a week, according to the testimony. The Company's toll-free number is printed on customer billing statements. Mr. Rhodes testified that the Company's customer service department is prepared to respond to a broad range of service matters, including the types of services offered; monthly billing statements; problems or concerns pertaining to a customer's current service; and general telecommunications matters.

Regarding the Company's financial resources, Mr. Rhodes testified that Epixtar, through its parent company, is adequately funded for continuous operations. Mr. Rhodes testified that once the Company has initiated its operations, and is generating revenue, the

assistance of its parent company will not be necessary. The financial statements of Epixtar's parent company, Global Asset Holdings, Inc., are in the record of this case. Epixtar maintains its financial records in accordance with the Generally Accepted Accounting Principles (GAAP).

Epixtar will market its services by using independent agents and/or in-house sales representatives. The Company will use telemarketing in connection with its services.

After full consideration of the applicable law, Epixtar's Application, and the evidence presented at the hearing, the Commission hereby issues its Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Epixtar is a privately-held corporation duly organized and existing under the laws of the State of Florida and has been authorized to do business in the State of South Carolina by the Secretary of State.

2. Epixtar is a provider of interexchange telecommunications services and wishes to provide its services in South Carolina.

3. Epixtar has the managerial, technical, and financial resources to provide the services as described in its Application.

4. The Commission finds that Epixtar should be granted a waiver of 26 S.C. Code Regs.103-610 requiring that reports and records be maintained within the State of South Carolina.

5. The Commission finds it appropriate for Epixtar to maintain its books and records using Generally Accepted Accounting Principles (GAAP) rather than the Uniform System of Accounts (USOA) as developed by NARUC.

### **CONCLUSIONS OF LAW**

1. The Commission concludes that a Certificate of Public Convenience and Necessity should be, and hereby is, granted to Epixtar to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. With regard to any residential interexchange service offerings of Epixtar, the Commission adopts a rate design that includes only maximum rate levels for each tariff charge. The Commission has previously adopted a rate structure incorporating maximum rate levels. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. With regard to interexchange service rates, Epixtar shall not adjust its interexchange service rates below the approved maximum levels without notice to the Commission and to the public. Epixtar shall file its proposed rate changes, publish notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances that do

not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for the interexchange services reflected in the tariff which would be applicable to the general body of Epixtar's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2002).

4. If it has not already done so by the date of issuance of this Order, Epixtar shall file its revised interexchange tariffs and accompanying price lists within thirty (30) days of receipt of this Order. The revised tariffs shall be consistent with the findings of this Order, shall incorporate the changes suggested by the Staff and with which Epixtar agreed, and shall be consistent with South Carolina law, including the Commission's Rules and Regulations.

5. Epixtar is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to Epixtar's interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Epixtar shall resell the services of only those interexchange carriers or LECs authorized by this Commission to provide telecommunications services within the

State of South Carolina. If Epixtar changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, Epixtar shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Epixtar shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

9. Epixtar shall file annual reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The annual report and the gross receipt filings will necessitate the filing of intrastate information. Therefore, Epixtar shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form to be used in filing annual financial information with the Commission may be found at the Commission's website at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm). The two-page form Epixtar is required to use in which to file the required information is entitled "Annual Information on South Carolina Operations for Interexchange Companies and AOS." Be advised that the Commission's annual report form requires the filing of intrastate revenues and intrastate

expenses. The Company shall file intrastate gross receipts reports with the Commission on or before August 31<sup>st</sup> of each year.

10. Epixtar shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, Epixtar shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies occurring during non-office hours.

Epixtar shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form Epixtar is required to use by which to file the authorized utility representative information may be found at the Commission's website at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm). This form is entitled "Authorized Utility Representative Information." Further, if any representatives are replaced, Epixtar shall promptly notify the Commission in writing.

Epixtar shall also file with the Commission a copy of its general Bill Form as required by S.C. Code Regs. 103-612.2 and 103-622 (1976 and Supp. 2002).

11. Epixtar shall conduct its business in compliance with Commission decisions and Orders, both past and future.

12. With regard to Epixtar's request for a waiver 26 S.C. Code Regs. 103-610 of the Commission's Rules and Regulations, Epixtar is hereby granted a waiver of 26 S.C. Code Regs. 103-610. Further, Epixtar may keep its books and records according to



Generally Accepted Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA), as requested.

13. Each telecommunications company certified in South Carolina is required to file annually the Intrastate State Universal Service Fund (USF) worksheet. This worksheet provides the Commission Staff with information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than August 15<sup>th</sup>.

14. Epixtar shall comply with all Rules and Regulations of the Commission, unless the Commission specifically waives a regulation.

15. This Order shall remain in full force and effect until further Order of the Commission.

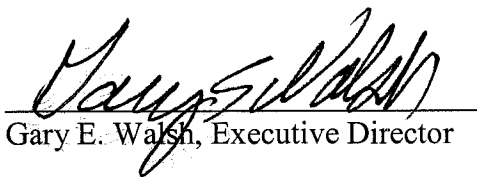
BY ORDER OF THE COMMISSION:



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Mignon L. Clyburn, Chairman

ATTEST:



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Gary E. Walsh, Executive Director

(SEAL)